

- Plaintiffs' Rule 37 Motions (Dkt. Nos. 90 and 95) are **GRANTED IN PART AND DENIED IN PART**. The motion is granted insofar as relevant exhibits have been excluded by the Court, as detailed below. The motion is in all other respects denied.
- Plaintiffs' Motion for Expedited Briefing (Dkt. No. 91) is **DENIED AS MOOT**.
- Defendant's Motion to Bifurcate (Dkt. No. 92) is **DENIED**. Defendant's Motion to Reconsider (Dkt. No. 98) is **DENIED**. The Court finds that any applicable Texas rule requiring bifurcation of trial is procedural in nature and that Federal Rule of Civil Procedure 42(b) places the decision to bifurcate trial on exemplary damages within the Court's discretion. The Court finds that such a bifurcation would be unhelpful and dilatory in this case.
- Defendant's Motion to Quash Plaintiffs' Deposition Notice (Dkt. No. 93) is **DENIED AS MOOT**.
- Defendant's Motion for Leave to File Amended Exhibit List, Witness List, and Pretrial Order (Dkt. No. 97) is **GRANTED**.

Motions in Limine

- Plaintiff Justin Smith's Motions In Limine (Dkt. No. 75) are **GRANTED BY AGREEMENT**.
- Plaintiffs' Motions in Limine (Dkt. No. 73) Nos. 2-7, 9-15, 17, 19, 21, 23-30, and 33-35 are **GRANTED BY AGREEMENT**.
- Plaintiffs' Motion in Limine (Dkt. No. 73) No. 8 is **GRANTED AS AMENDED BY AGREEMENT**. The parties will approach the bench before making reference to any settlement, or offer of settlement, which has been made or entered into, as well as any

references to the fact that this lawsuit could have been but was not settled, compromised, or resolved.

- Plaintiffs' Motion in Limine (Dkt. No. 73) No. 8 is **GRANTED AS AMENDED BY AGREEMENT**. The parties will approach the bench before referencing or alluding to the personal habits of any Plaintiff, including whether any Plaintiff may or may not have either presently or in the past consumed any alcoholic beverages, abused prescription or narcotic drugs, including whether any Plaintiff sought or obtained medial treatment for the use or abuse of alcohol or drugs.
- Plaintiff's Motion in Limine (Dkt. No. 73) No. 22 is **GRANTED** insofar as it requires Defendant to seek leave to refer to any document excluded from pre-admission as an exhibit by the Court.
- Plaintiffs' Motion in Limine (Dkt. No. 73) No. 36 is **WITHDRAWN**.
- Plaintiffs' Motions in Limine (Dkt. No. 73) Nos. 1, 18, 19, 31, and 32 are **GRANTED**.
- Defendant's Motions in Limine (Dkt. No. 76) Nos. 1-20, 22, 23, 25-29, 39, 41, 43, 48, 50, 51, 61, 63-71, 73, 75, and 79 are **GRANTED BY AGREEMENT**.
- Defendant's Motions in Limine (Dkt. No. 73) Nos. 32-34, 36, 38, 46, 47, 52, 53, 58, 59, 62, 76, and 78 are **WITHDRAWN**.
- Defendant's Motions in Limine (Dkt. No. 76) Nos. 24, 30, 31, 44, 54-56, 74, 77, and 80 are **GRANTED**.
- Defendant's Motion in Limine (Dkt. No. 76) No. 42 is **GRANTED IN PART AND DENIED IN PART**. Plaintiffs may elicit testimony that Defendant conducted an investigation into the accident and that Defendant's lawyers were in charge of the investigation, but may not characterize the results of the investigation or allude to any

possible result. The parties are advised that testimony regarding Defendant's investigation *may* open the door to Defendant's introduction of evidence pertaining to the results of said investigation, even if such evidence has not previously been produced to Plaintiff's counsel because of the Court's rulings on attorney-client privilege and the attorney work product doctrine.

- Defendant's Motions in Limine (Dkt. No. 73) Nos. 21, 35, 37, 40, 45, 49, 57, 60, and 72 are **DENIED**.


Exhibit Objections

- Plaintiff's Exhibits 26-30, 32, 166, 168, 170, and 210-216 are deemed **PRE-ADMITTED**.
- Plaintiff's Exhibit 45 is deemed **PRE-ADMITTED** as to audio files in which Mr. Larry Peace is a participant
- Plaintiff's Exhibit 51 is deemed **PRE-ADMITTED** as amended.
- Plaintiff's Exhibit 50 is **WITHDRAWN**.
- Plaintiff's Exhibits 65, 90, 91, 133, 134, and 144 are **DENIED** pre-admission.
- Defendant's Exhibits 307, 309, 344, 351, 354, 356, and 362 are deemed **PRE-ADMITTED**.
- Defendant's Exhibit 245 is deemed **PRE-ADMITTED** insofar as it depicts Ambien, Xanax, and any medication for which evidence has been introduced indicating that Plaintiff Mr. Dennis Smith was actually taking said medication at the time of the accident in question. Insofar as other drugs are depicted, preadmission is **DENIED**.
- Defendant's Exhibits 245, 254-57, 259, 260, 264, and 312 are deemed **PRE-ADMITTED** as amended by agreement of the parties.

- Defendant's Exhibits 258, 281, 282, 286, 289-99, 306, 308, 310, and 361 are **WITHDRAWN**.
- Defendant's Exhibits 253, 323-43, 345-50, 355, and 357-60 are **DENIED** pre-admission.
- All other Exhibits submitted to the Court in pretrial and not otherwise objected to or denied by the Court are deemed **PRE-ADMITTED BY AGREEMENT**.

So Ordered and Signed on this

Mar 5, 2014



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE